

REMARKS

Claims 51-63 are pending in the present application. Claims 51-54 and 56 have been amended herein. Claims 57-63 have been added hereby. No claims have been cancelled hereby. Applicant acknowledges and appreciates the careful analysis of the claims and the cited references provided in the Office Action. The remarks below support applicant's assertion that these claims are statutory and distinguish over the prior art, and are therefore in condition for allowance.

Applicant requests that the fees associated with the Appeal filed May 4, 2007, continue to be retained by the Office until further notice in the event that an appeal in this case is reinitiated.

35 U.S.C. § 103(a)

Claims 51-56 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,369,840 (Barnett) in view of U.S. Patent Pub. 2002/0089536 (Dang). In addition to those comments made in applicant's previous response in this case, which are incorporated herein by reference, applicant asserts that the cited combination of references fails to teach or suggest instructions which would be operable to display "Internet content of a type which is encoded and formatted for display by a web browser program" independent of a web browser program. While this point has been previously and extensively argued, applicant has amended the claims herein to make this point even more explicit.

It should also be noted that while Barnett et al. states that "other embodiments of the invention, that may operate without use of a browser, are also possible" (col. 7, lines 29-30),

there is absolutely nothing in Barnett et al. that would teach or suggest to one skilled in the art how such operation would be obtained. Typical systems of the type in which the invention of Barnett operate rely on a web browser application for a number of the critical functions required for operation, such as rendering and communications. Absent some sort of teaching regarding how one would obtain such operation without a web browser application, one skilled in the art would be left to invent techniques for doing so, with no suggestion as to how or even motivation as to why provided by the cited reference – even for the “person of ordinary creativity” referred to in KSR International v. Teleflex, 2007 U.S. LEXIS 4745 (41). Applicant asserts that this requires invention on the part of one skilled in the art beyond what would have been obvious to such a person at the time of filing, and that therefore the combination of Barnett and Dang is insufficient to render the present invention unpatentable under 35 U.S.C. 103.

Applicant argues that the lack of teaching this feature means that no prima facie case of obviousness has been made by the Patent Office. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).” M.P.E.P. § 2143.03. Accord. M.P.E.P. § 706.02(j). Barnett and Dang, taken alone or in combination, fail to teach or suggest instructions for presenting, independent of a browser, Internet content of a type which is encoded and formatted for display by a web browser program. Consequently, the obviousness of claim 51, and of claims 52-56 which depend from claim 51, has not be sufficiently shown. Therefore, applicant respectfully requests that the rejection of claims 51-56 be reconsidered and withdrawn.

Importantly, while applicant has focused on a number of limitations of claim 51, there are additional limitations present in that claim as well as the claims depending from claim 51, which further distinguish those claims from the cited references. Therefore, the fact that those additional limitations are not specifically discussed herein is not to be read as implying that

those discussed herein are the exclusive set of such differentiating limitations. Rather, applicant has selected several differentiating limitations and limited the discussion thereto in the interest of brevity, and reserves the opportunity to discuss those limitations further in subsequent correspondence regarding this case, if necessary.

Furthermore, each of the dependent claims in the present application provide their own additional limitations which may form the basis for distinguishing the reference, although such limitations are not explicitly argued herein. Thus, applicant reserves the right to argue the differences between any and all specific dependent claim limitations and the cited references for a later date, if necessary.

Finally, applicant also respectfully asserts that claims 57-63 introduced herein distinguish from the cited references, and indeed are patentable as submitted. Applicant requests consideration of said claims.

Conclusion

For the foregoing reasons, the present application is thought to be clearly in condition for allowance. Accordingly, favorable reconsideration and issuance of a formal Notice of Allowance for this application in light of the amendments and remarks provided above is respectfully requested.

By action taken here, Applicant in no way intends to or causes any surrender of any subject matter or range of equivalents beyond that strictly required to patentably distinguish the claimed invention as a whole over the prior art. Applicant expressly reserves without dedication all such subject matter and equivalents that may fall in the range between Applicant's literal claim recitations and combinations taught or suggested by the prior art.

If the Examiner believes that a telephone conference would expedite prosecution and allowance of this application, please telephone the undersigned at 650-941-4470.

Respectfully submitted,

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